

Tax Code of the Republic of Belarus
(with amendments enacted 01.01.2019)

Extract: paragraphs 2, 2.12, 2.31 of Article 13; paragraphs 1, 1.1, 1.9, 1.9.7 of Article 22; paragraph 3 of Article 27; paragraphs 1, 2, 4, 5 of Article 28; paragraph 3 of Article 39; paragraphs 1, 1.7, 2 of Article 70; paragraph 4 of Article 73; paragraph 3 of Article 86; paragraphs 1, 1.4, 4, 5 of Article 117; paragraphs 3, 3.5 of Article 122; paragraphs 3, 3.12 of Article 131; Article 141.

Article 13. Terms and their definitions

2. For the purposes of this Code the following terms and their definitions are used:

2.12. a foreign organization providing online digital services to private consumers:

foreign organization providing online digital services on the territory of the Republic of Belarus to private consumers purchasing such services and carrying out settlements with this foreign organization for the services provided (foreign organization providing online digital services to private consumers in the Republic of Belarus);

foreign organization that under commission agreements, agency contracts and others similar civil contracts concluded with foreign organizations providing online digital services to private consumers in the Republic of Belarus performs intermediary activity and carry out settlements with these private consumers for their purchase of the mentioned services (foreign paying agent).

2.31 online digital services – services provided via the global computer network Internet (hereinafter – the Internet) automatically with the use of information technologies, as well as through the foreign paying agent;

Article 22. Taxpayer's obligations

1. The taxpayer is obligated:

1.1. to register with tax authorities in cases established by this Code;

1.9. ... to inform not later than ten working days:

1.9.7. after the day when the data, previously provided by a foreign organization during its registration with tax authorities, has been changed – about such a change. The information shall be provided in electronic form regarding each subsequent change of such data;

Article 70. Procedure of registration and de-registration of foreign organizations with tax authorities

1. Foreign organizations shall be registered with tax authorities once the application is submitted:

1.7. by a foreign organization providing online digital services to private consumers – to the Minsk city tax inspectorate in electronic form via the unified portal of electronic services before the end of the quarter in which the object of VAT appears.

A copy of the abstract from trade register of the foreign organization's country of residence or any other equivalent confirmation of the foreign organization's legal status in accordance with the country of residence legislation shall be attached to the application.

In case the submission of an application for registration of a foreign organization with tax authorities is impossible within the time limit established by the unnumbered paragraph 1 of this subparagraph because the portal of the Ministry of Taxes and Duties of the Republic of Belarus, the unified portal of electronic services of the nationwide automated information system are not available (including due to power outage and (or) equipment breakdown (its part)), the resources of these portals are insufficient, the software of these portals produces errors, the communication channels are not available and (or) absent, including insufficient channel capacity, then the due time is prolonged for the time period required to eliminate the reasons for which a foreign organization is not able to submit the application.

2. The original documents presented to the tax office for registration shall be returned to the taxpayer after the originals are verified with their copies.

The documents issued in foreign language shall be translated into the Belarusian or Russian language. The fidelity of translation or authenticity of the translator's signature are to be attested notarially or by the diplomatic missions or consular posts of the Republic of Belarus.

The abstract from trade register of the foreign organization's country of residence or any other equivalent confirmation of the foreign organization's legal status in accordance with the country of residence legislation are required to be issued no later than 3 month before submission of the application for registration with tax authorities of the Republic of Belarus.

A copy of the abstract from trade register of the foreign organization's country of residence or any other equivalent confirmation of the foreign organization's legal status in accordance with the country of residence legislation shall be prepared pursuant to the country of issuance legislation, authenticated by the competent authorities of that country and legalized by the diplomatic missions or consular posts of the Republic of Belarus unless the international agreements of the Republic of Belarus otherwise stipulate.

The requirements established by the unnumbered paragraphs 2-4 of this paragraph shall not apply to the documents provided for registration with tax authorities of a

foreign organization mentioned in the subparagraph 1.7 of paragraph 1 of this Article.

Article 27. Procedure of cooperation with a taxpayer

3. ...

The documents and (or) data in electronic form might be presented by a foreign organization providing online digital services to private consumers to the tax office or sent by the tax office to such organization in a form of electronic document and (or) in electronic form.

Article 28. Taxpayer's personal account

1. The taxpayer's personal account placed in the Internet is a web resource administrated by the Ministry of Taxes and Duties of the Republic of Belarus under the procedure set by this Ministry.

The taxpayer's personal account is used in cases stipulated by this Code to receive from tax authorities and submit to tax authorities electronic documents, documents and (or) information in electronic form.

2. The taxpayer's personal account of a foreign organization providing online digital services to private consumers is accessed with the use of account and password.

4. The account and password of a foreign organization providing online digital services to private consumers are sent by the Minsk city tax inspectorate.

Access to the taxpayer's personal account is granted to the foreign organization providing online digital services to private consumers since the date of its registration with tax authorities and lasts during six months after de-registration with tax authorities.

5. The documents and (or) data in electronic form submitted via the taxpayer's personal account which is accessed with the use of personal account and password are considered equal to the documents in paper form signed with handwritten signature of the individual or the representative of a foreign organization providing online digital services to private consumers in the Republic of Belarus.

Article 117. Place of supply of works, services and property rights

1. The territory of the Republic of Belarus is considered to be the place of provision of works, services and property rights in case:

1.4. the purchaser of works, services, intellectual property rights performs activity on the territory of the Republic of Belarus and (or) the place of his residence (domicile) is the Republic of Belarus.

The provisions of this paragraph shall apply in relation to the online digital services;

4. Online digital services include:

4.1. licensing of (granting the rights to use) software (including computer games), databases, their updates and additional functions, as well as electronic books (other electronic publications), informational and educational materials, graphic images, music and audiovisual works (with or without text content) via the Internet, including providing remote access to them, their reviewing and (or) listening via the Internet;

4.2. advertising services via the Internet, including those provided with the use of computer programs and databases operating via the Internet, provision of space and time slots for advertisements on the Internet;

4.3. placing sales offers for goods (works and services) and property rights via the Internet;

4.4. services automatically provided via the Internet upon entering data by the customers, automated data search, selection, sorting and provision to users per their requests via information and communication networks (including stock exchange reports and automated translation in real-time mode);

4.5. search services and (or) providing the clients with information on potential customers;

4.6. providing technical, organisational, informational and other capacities with the use of information technologies and systems for establishing contacts and making deals between sellers and customers via the Internet (including provision of a trading platform operating via the Internet in real-time mode where potential customers offer their prices via automated procedure and the parties are alerted on a sale with an automatically generated message);

4.7. maintaining and supporting Internet presence for personal or business activity purposes, supporting users' electronic resources (Internet web sites and (or) web pages), maintaining access for other Internet users to them, providing users with modification opportunities, administering information systems;

4.8. information storage and processing, if information provider can access the information via the Internet;

4.9. providing computing power in real-time mode for placing information in an information system;

4.10. providing domain names, hosting services;

4.11. providing access to search engines on the Internet;

4.12. gathering statistics on Internet sites;

4.13. organizing and conducting gambling activities.

5. Online digital services do not include:

sale of goods (works, services) if ordered via the Internet they are supplied without use of the Internet;

licensing of (granting the rights to use) software (including computer games), databases, recorded on tangible storage media;

providing consultation services by e-mail;

providing access to the Internet.

Article 122. VAT rates

3. The VAT rate in the amount of 20% is charged when:

3.5. the online digital services are provided.

Article 131. Electronic invoice

3. Electronic invoice shall not be issued:

3.12. when online digital services are provided by foreign organizations providing online digital services to private consumers;

Article 39. Tax accounting

3. Foreign organizations providing online digital services to private consumers shall ensure the accounting of:

3.1. data required to compute the sum of tax obligations for the tax period that include:

the sums of tax base indicating currency of payment and data of service provision;

the sums of tax base change that occurred in the tax period (tax periods) following the tax period for which the tax base was reported due to refund of money to the purchasers (including by offsetting against providing other online digital service) and the dates of such refund of money;

the sums of payments received, including the sums of prepayments, and the dates of receipt of these payments;

3.2. data used by a foreign organization to determine the place of location of a private consumer (name, surname and patronymics name (if any) of a purchaser if such information was presented by a purchaser) that include information about a country where a private consumer is located (if such information was presented by a purchaser), the Internet Protocol address of the device used by a purchaser when

acquiring online digital services and other information presented by a private consumer that enable to determine his actual place of location. The records shall be kept in any form for each private consumer to whom the online digital service was provided in a tax period.

Article 141. Calculation and payment of VAT by foreign organizations providing online digital services to private consumers

1. Foreign organizations providing to private consumers mentioned in the paragraph 2 of this Article (including to the individual entrepreneurs) online digital services that according to the subparagraph 1.5 of paragraph 1 of Article 117 of this Code are considered to be provided on the territory of the Republic of Belarus shall assess and pay VAT, submit VAT return to the tax authorities of the Republic of Belarus unless other persons indicated in the paragraphs 3 and 4 of this Article are obligated to assess and pay VAT.

2. A private consumer (including an individual entrepreneur) are recognized as purchasing online digital services that are considered to be provided on the territory of the Republic of Belarus when at least one of the conditions listed below fulfills:

the place of location of a private consumer (including an individual entrepreneur) is the Republic of Belarus;

the registered office of the bank where the account of a private consumer (including an individual entrepreneur) is opened to pay for services or the registered office of the electronic money system used to pay for services is situated on the territory of the Republic of Belarus;

the Internet Protocol address of the device used by a private consumer (including an individual entrepreneur) for the purchase of online digital services is registered in the Republic of Belarus (refers to the address area of the Republic of Belarus);

international country calling code of the phone number used by a private consumer (including by an individual entrepreneur) for purchase and payment of services belongs to the Republic of Belarus.

3. When foreign organizations provide online digital services to private consumers (including to individual entrepreneurs) that purchase online digital services in the Republic of Belarus through the intermediary of the Belarusian companies, individual entrepreneurs, representation offices of the foreign organizations that are registered with tax authorities and that participate in settlements with these private consumers (including individual entrepreneurs) for the mentioned services under commission agreements, agency contracts and others similar civil contracts concluded with foreign organizations providing such services, the above mentioned paying agents shall assess and pay VAT in accordance with the procedure established by the paragraph 3 of Article 114 of this Code.

4. When foreign organizations provide online digital services to private consumers (including to individual entrepreneurs) that purchase online digital services in the Republic of Belarus and several foreign organizations mentioned in the unnumbered paragraph 3 of subparagraph 2.12 of paragraph 2 of Article 13 of this Code participate in settlements, then a foreign intermediary that actually serves as a paying agent irrespective of whether it has a contract concluded with a foreign organization providing online digital services to private consumers (including to individual entrepreneurs) in the Republic of Belarus.

5. When the online digital services are provided by foreign organizations providing online digital services to private consumers, including under commission agreements, agency contracts and others similar civil contracts, the tax base shall be determined as a value of these services including the sum of VAT.

When the services indicated in the unnumbered paragraph 1 of this paragraph are provided and paid in foreign currency, in order to determine the tax base, foreign currency is converted to the Belarusian rubles according to the official exchange rate of the National Bank of the Republic of Belarus set on the date of actual sale of the indicated services.

When a private consumer (including an individual entrepreneur) purchasing online digital services rejects from services provided or in case of decrease (increase) of value of services, tax base is subject to the corresponding adjustment in the tax period in which the services provided were rejected or the value of services was decreased (increased).

6. The actual moment of the sale of online digital services to private consumers (including to individual entrepreneurs) by foreign organizations is considered to be the last day of the tax period on which the day of payment falls, including prepayment or the day of any other termination of obligations by the private consumers (including by individual entrepreneurs).

7. The tax period for VAT for foreign organizations providing online digital services to private consumers (including, to individual entrepreneurs) is a calendar quarter.

8. When foreign organizations providing online digital services to private consumers (including, to individual entrepreneurs) provide online digital services, the sum of VAT that is to be computed and paid to the budget shall be determined by multiplying the tax base defined in accordance with the procedure set in the paragraph 5 of this Article by the tax rate stipulated in the paragraph 3 of Article 122 of this Code and divided by the tax rate increased by 100.

9. The sums of VAT charged to (paid upon import to the territory of the Republic of Belarus by) a foreign organization providing online digital services to private

consumers (including to individual entrepreneurs) upon the acquisition of goods (works and services), property rights shall not be deducted and do not decrease the sum of VAT computed by a foreign organization providing online digital services to private consumers (including, to individual entrepreneurs).

10. Foreign organizations providing online digital services to private consumers (including, to individual entrepreneurs) shall submit to the Minsk city tax inspectorate via the taxpayer's personal account in electronic form in the established form and format not later than the 20th day of a month following the tax period ended:

either VAT return in a form of an electronic document;

or information that contains data on sales revenue from services provided and the computed sum of VAT payable.

The VAT shall be paid not later than the 22th day of a month following the tax period ended.

Article 73. Desk audit

4. ...

Tax authorities are entitled to request from a foreign organization providing online digital services to private consumers the information confirming that the online digital services were provided on the territory of the Republic of Belarus, the sum of revenues received from provision of online digital services as well as any other information relating to the provision of such services.

Article 86. Cooperation with banks, other legal persons (professional participants of security market that perform depository activities) in relations governed by tax legislation

3. On request of the Ministry of Taxes and Duties of the Republic of Belarus and (or) the Minsk city tax inspectorate not later than 3 working days after the receipt of such request the following institutions are obligated to present the below listed information:

bank, processing center, owner of the payment systems (based on the use of bank payment cards), owner of the settlement systems (based on the use of electronic money) – data about transfers of money made to the foreign organizations providing online digital services to private consumers;

telecom carriers, Internet access providers – data about provision of online digital services by a foreign organization to private consumers.